



U.S. Department of Justice

Immigration and Naturalization Service

OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
JLLB, 3rd Floor
Washington, D.C. 20536

File: EAC-99-115-51146

Office: Vermont Service Center

Date:

SEP 20 2000

IN RE: Petitioner:
Beneficiary:

Petition: Petition for Special Immigrant Religious Worker Pursuant to Section 203(b)(4) of the Immigration and Nationality Act, 8 U.S.C. 1153(b)(4)

IN BEHALF OF PETITIONER:

Public Copy

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.


If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy


Terrence M. O'Reilly, Director
Administrative Appeals Office

DISCUSSION: The immigrant visa petition was denied by the Director, Vermont Service Center. A subsequent appeal was dismissed by the Associate Commissioner for Examinations. The matter is now before the Associate Commissioner on motion to reopen. The motion will be dismissed.

The petitioner is a church. It seeks classification of the beneficiary as a special immigrant religious worker pursuant to section 203(b)(4) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1153(b)(4), to serve as a minister. The director denied the petition determining that the petitioner had failed to establish the beneficiary's two years of continuous religious work experience. The director also found that the petitioner had failed to establish that it had the ability to pay the proffered wage.

On appeal, counsel argued that the beneficiary was eligible for the benefit sought.

The Associate Commissioner dismissed the appeal, affirming the decision of the director. The Associate Commissioner also found that the petitioner had failed to establish that the prospective occupation is a religious occupation, that the beneficiary is qualified to work in a religious occupation, or that it had made a valid job offer to the beneficiary.

On motion, counsel states that "there is new evidence obtained since submission of the original application." Counsel submits photocopies of previously-submitted documents.

8 C.F.R. 103.5(a)(2) requires that a motion to reopen state the new facts to be provided at the reopened proceeding and be supported by affidavits or other documentary evidence.

8 C.F.R. 103.5(a)(4) states that a motion that does not meet applicable requirements shall be dismissed.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. 1361. That burden has not been met, as the petitioner has not provided any new facts or additional evidence to overcome the previous decision of the Associate Commissioner. On motion, counsel has merely submitted photocopies of previously-submitted documents. Accordingly, the previous decisions of the director and the Associate Commissioner will not be disturbed, and the motion will be dismissed.

ORDER: The motion is dismissed.